



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/759,945

01/16/2004

Jos Huybrechts

FA1105USNA

8234

23906

7590

02/20/2008

E I DU PONT DE NEMOURS AND COMPANY  
LEGAL PATENT RECORDS CENTER  
BARLEY MILL PLAZA 25/1122B  
4417 LANCASTER PIKE  
WILMINGTON, DE 19805

EXAMINER

WU, IVES J

ART UNIT

PAPER NUMBER

1797

NOTIFICATION DATE

DELIVERY MODE

02/20/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-Legal.PRC@usa.dupont.com

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<p><b>Application No.</b> 10/759,945</p>	<p><b>Applicant(s)</b> HUYBRECHTS ET AL.</p>	
	<p><b>Examiner</b> IVES WU</p>	<p><b>Art Unit</b> 1797</p>	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 28 January 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-13.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

/Duane S. Smith/  
Supervisory Patent Examiner, Art Unit 1797

2-12-08

Continuation of 11. does NOT place the application in condition for allowance because: As to argument that prior reference Sampson (et al (US03892714) does not even make the slightest suggestion that at least one cycloaliphatic ester of a free-radically copolymerizable olefinically unsaturated carboxylic acid is included to develop such coatings that possessed both excellent drying properties and hardness development (pages 5 & 8). However, Sampson et al (US03892714) does disclose the general formula  $\text{CH}_2=\text{C}<$ , which includes the species of cycloaliphatic structure monomers.

As to the argument that Sampson et al (US03892714) fails to teach the limitation of instant claim 1 requiring the (meth)acrylic copolymer to be "free of epoxy-functional free radically copolymerizable olefinically saturated monomers". Since the disclosure of Sampson et al (US03892714) meets the limitation of component A) and B) as well as the process in instant claim 1, the coating composition of Sampson et al (US03892714) would inherently possess this property of being free of epoxy-functional free radically copolymerizable olefinically saturated monomers. In re Fitzgerald, 205 USPQ 594 (CCPA 1980).

As to the argument that Sampson et al (US03892714) fail to disclose the percentage of each components in instant claim 2 based on the Examples of Sampson et al (US03892714) only disclose three-component (meth)acrylic copolymer compounds such a specific combination of four distinct components is not even remotely suggested by this reference. However, the broad disclosure of Sampson et al (US03892714) teaches more than 3 components "reacting an ethylenically unsaturated hydroxyl-containing monomer with one or more ethylenically unsaturated monomers to form a copolymer containing hydroxyl side groups (Col. 2, line 1-4), Disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or nonpreferred embodiments. In re Susi, 440 F.2d 442, 169 USPQ 423 (CCPA 1971).

As to the argument that the Thomas et al (US06130286A) disclose different modification/polymerization process as such, one skilled in the art would not be motivated to combine Thomas's et al (US06130286A) teaching with Sampson et al (US03892714). However, the teaching of cycloalkyl acrylate by Thomas et al (US06130286) is where the combined teaching relied on and its advantages is disclosed in the art as well. One can not show nonobviousness by attacking references individually where the rejections are based on combinations of references. In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Therefore, the Final rejection for claims 1-13 in the Office Action dated 11/28/2007 is sustained .